



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 6244-99
4 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 1 October 1980 for four years at age 18. The record reflects that you were advanced to PFC (E-2) and served without incident until 4 December 1981, when you received nonjudicial punishment (NJP) for two brief periods of unauthorized absence (UA). Punishment imposed was a forfeiture of \$309, which was suspended for a period of six months, and 15 days of restriction. However, you were advanced to LCPL (E-3) on 1 January 1982.

On 3 August 1982 you submitted a request for discharge under other than honorable conditions for the good of the service to escape trial by court-martial for a 52 day period of UA, from 28 May to 19 July 1982. Prior to submitting this request you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 9 August 1982 the discharge authority approved the request and directed discharge under other than honorable conditions. You were so discharged on 13 August 1982.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been more than 17 years since you were discharged. The Board noted your contention that personal issues and family problems contributed to the UA which led to your discharge. The Board concluded that these factors and contention were insufficient to warrant recharacterization of your discharge given your record of an NJP and the fact that you accepted discharge rather than face trial by court-martial for a prolonged period of UA. You have provided neither probative evidence nor a convincing argument in support of your application. The Board believed that considerable clemency was extended to you when the request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. The Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. The Board thus concluded your discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director